



UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER	FILED DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
18M1/0320	07/01/94	LABIGNE	A 6600750XP

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18M1/0320

EXAMINER	
MINNIFIELD, N	
ART UNIT	PAPER NUMBER
1817	18

DATE MAILED: 03/20/97

Below is a communication from the EXAMINER in charge of this application  
COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run 5 months or continues to run \_\_\_\_\_ from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.
- Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 1-21-97 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - b. ☒ They raise new issues that would require further consideration and/or search. (See Note).
  - c. ☒ They raise the issue of new matter. (See Note).
  - d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - e. ☒ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: New cl. 18 would require new search as markush members of pending cl. 18 have been claimed individually. "Mutants thereof" appears to be new matter

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 18, 19, 37-39

However;

☒ Applicant's response has overcome the following rejection(s): 102b/103 rejection, cl. 19, 39 over Mulrone et al. or Bradley et al.

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because See attached

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☒ Other Interview Summary 3/3/97  
PTO 1449 Filed 1/21/97

Art Unit: 1817

#### ADVISORY ACTION

1. Applicants Amendment After Final filed January 21, 1997 has not been entered for reasons set forth in attached interview summary and advisory action (form 303).
2. The rejection of claims 37 and 38 under 35 U.S.C. § 112, first paragraph (i.e. lack of an enabling disclosure) is maintained. This rejection is maintained for essentially the same reasons as the rejection of claims 37 and 38 under this statutory provision, as set forth in the last Office action. Applicants' arguments filed January 21, 1997, with regard to the pending claims have been previously addressed and have been fully considered but they are not deemed to be persuasive.
3. The rejection of claims 18, 19, 37 and 38 under 35 U.S.C. § 112, second paragraph (i.e. indefiniteness of the presented claims) is maintained. This rejection is maintained for essentially the same reasons as the rejection of claims 18, 19, 37 and 38 under this statutory provision, as set forth in the last Office action. Applicants' arguments filed January 21, 1997, have been fully considered but they are not deemed to be persuasive.
4. The rejection of claim 18 under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103 as obvious over Tabaqchali et al is maintained. This rejection is maintained for essentially the same reasons as the rejection of claim 18 under this statutory provision, as set forth in the last Office action. Applicants' arguments filed January 21, 1997, have been fully considered but they are not deemed to be persuasive.

Applicants have referred the Examiner to pp. 4-5 of the instant specification, however these pages have been canceled. Applicants have asserted that it is unclear how a NT sequence of only 71 NT can be said to correspond to a gene composed of 584 NT. However, it is noted that the claims are directed to the polypeptide or any part of at least one of these polypeptides which prior art encompasses. Applicants have asserted that the prior art does not teach the amino acid which corresponds to the NT 2622-2693. The NT correspond to the ureI, only part of it as Applicants have claimed.

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5. The rejection of claims 18, 19 and 39 under 35 U.S.C. § 103 as obvious over Ferrero et al is maintained. This rejection is maintained for essentially the same reasons as the rejection of claims 18, 19 and 39 under this statutory provision, as set forth in the last Office action. Applicants' arguments filed January 21, 1997, have been fully considered but they are not deemed to be persuasive.

It is noted that the Ferrero et al reference is Cussac, Ferrero and Labigne (1991, SOMED, 4(S):S139). This is an abstract from a scientific meeting. This rejection is maintained as Applicants have not set forth any new arguments regarding this rejection.

6. The rejection of claims 37 and 38 under 35 U.S.C. § 103 as obvious over Ferrero et al and Sevier is maintained. This rejection is maintained for essentially the same reasons as the rejection of claims 37 and 38 under this statutory provision, as set forth in the last Office action. Applicants' arguments filed January 21, 1997, have been fully considered but they are not deemed to be persuasive.

This rejection is maintained as Applicants have not set forth any new arguments regarding this rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. M. Minnifield whose telephone number is (703) 305-3394. The examiner can normally be reached on Monday-Thursday from 7:00 AM-4:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula K. Hutzell, Ph.D., can be reached on (703) 308-4310. The fax phone number for this Group is (703) 305-7939.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

N. M. Minnifield

March 12, 1997

  
NITA MINNIFIELD  
PATENT EXAMINER  
GROUP 1800